

**PATENT**

**Attorney Docket Number: 46700-5004-12**

135. The bidding device of claim 129, wherein said submitted bid meets an overtime extension criteria if the submitted bid is submitted within a predefined time increment of said closing time.

136. The bidding device of claim 129, wherein said submitted bid meets an overtime extension criteria if the submitted is better than the current best bid for the lot by a predefined amount.

137. The bidding device of claim 129, wherein said submitted bid meets an overtime extension criteria if the bidder submitting the bid is an incumbent supplier.--

*Add 317*

**REMARKS**

This Preliminary Amendment is filed in Continuation application (Serial No. 09/828,731) filed on April 9, 2001 under the Continuation Application procedure of 37 CFR § 1.53(b) of prior application, Application No. 09/311,557, which is a divisional of Application No. 09/252,790. By this Preliminary Amendment, Applicants have cancelled claims 1-88, and added claims 89-137. Accordingly, claims 89-137 are presently under consideration.

In the Final Office Action dated September 11, 2000 in the parent application, claims 139-141 and 158-160 were rejected under 35 U.S.C. 102(b) as being anticipated by Sairamesh et al. ("Economic Framework for Pricing and Charging Digital Libraries", D-

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Lib Magazine, February, 1996) (*Sairamesh*). For the following reasons, Applicants respectfully submit that pending claims 89-137 are neither shown nor suggested by *Sairamesh*.

Claim 89 is directed to a method to control overtime in an electronic auction. In the claimed method, a first time interval corresponding to at least a portion of time during which bids are submitted to the auction for a first lot is defined. A second time interval (e.g., an overtime interval), a first overtime condition and a first closing time for a first lot are also defined. In the claimed method, a determination is made whether or not to extend the first closing time based upon whether the first overtime condition occurs during the first time interval. Similar limitations are recited in each of the pending independent claims.

When *Sairamesh* refers to "time intervals", it refers to fixed time intervals such as the specific interval from 4:00 pm to 5:00 pm. *Sairamesh* refers to these fixed time intervals as being the time period over which prices are being offered in the marketplace to accommodate peak-time pricing. The *Sairamesh* reference does not teach dynamically extending the closing time based upon whether an overtime condition occurred during at least a portion of the original auction interval, as set forth in the pending claims. To the extent that *Sairamesh* discloses time intervals, the "time intervals" are features of the products or services being purchased rather than characteristics of the auction process itself.

*Sairamesh* teaches having different scheduled times to hold auctions. The article describes that suppliers have different scheduled negotiation times, for example, one supplier might have a 6:00 am to 4:00 pm negotiation time and another supplier might

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have a 6:00 am to 5:00 pm negotiation time. These times are pre-specified based on the buyer, and do not change dynamically based on activity that occurs during the auction, as set forth in the pending claims.

Simply put, *Sairamesh*'s "time intervals" do not correspond to the "time intervals" recited in the claims. The present invention uses the term "time interval" specifically within the context of the auction operation to mean the amount of time to extend the closing time of a lot, or the amount of time before the scheduled closing of an auction that is used to determine whether an auction extending trigger has occurred. The "time interval" of the present invention is not a feature of the product being purchased.

To illustrate, using the example in *Sairamesh*, consider the case of two auctions, one scheduled to close at 4:00 pm and the second at 5:00 pm. (*Sairamesh*, page 5) Assume that it is now 3:59, and the first auction is about to close. The present invention teaches determining whether an overtime condition trigger has occurred in the auction. If such a trigger has occurred, (for example, a new low bid is received) the system of the present invention would amend the closing time of the first auction to 4:01, where 4:00 is the "first closing time" and the "second time interval" is one minute. *Sairamesh* does not teach changing the closing time of the auction by a time interval based on the occurrence of an overtime trigger. The closing times in *Sairamesh* are predetermined and do not change during the auctioning activity.

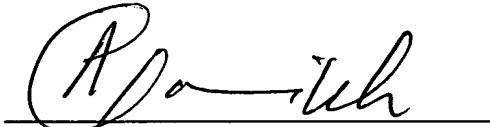
For at least the above reasons, it is believed that all pending claims represent patentable subject matter over the cited prior art, either alone or in combination. Applicants respectfully request the Examiner's consideration and examination of the application and timely allowance of the pending claims. The Examiner is invited to

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contact the undersigned at 215-963-5055 to discuss any matter concerning this application.

Respectfully submitted,  
**MORGAN, LEWIS & BOCKIUS LLP**

  
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